IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH PAUSHA 1928

Crl.MC.No. 4883 of 2003()

CC.102/2003 of JUDL. MAGISTRATE OF FIRST CLASS COURT-I, THRISSUR

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PETITIONER: ACCUSED

REMA NARAYANAN, W/O.E.NARAYANAN KUTTY
RESIDING AT MANGALA, NADAVARAMBA P.O.,
KOLOTHUMPADY, IRINJALAKKUDA.

BY ADV. SRI.N.N.SUGUNAPALAN

RESPONDENTS: COMPLAINANT

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1. P.SUDHAKARAN, AGED 46,
S/O. P.RAMAN NAIR (LATE) NATIONAL STORES,
WADAKANCHERRY VILLAGE, THALAPPILLY TALUK,
THRISSUR DISTRICT.

2. STATE OF KERALA, REPRESENTED BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA

R2 BY PUBLIC PROSECUTOR SRI C.M. KAMMAPPU.

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 03/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.HEMA, J.

Crl.M.C.NO.4883 of 2003

Dated this the 14th day of November, 2007

O R D E R

This petition is filed to quash a complaint, Annexure-A. The petitioner is the sole accused in Annexure-A complaint which was filed by the first respondent herein, alleging offences under Section 406, 420 IPC etc.

2. As per the allegations in the complaint, the petitioner is the Principal of a School and in April and May, 2001 the accused advertised and propagated that students would be given admission to standard 11 and 12 in Devi Academy from June 2001 onwards and asserted that Devi Academy stood affiliated to CBSE, New Delhi. She also allegedly made representations to the complainant, when the complainant approached the accused during last week of May, 2001 seeking admission to 11th and 12th class that the Academy has been affiliated to CBSE, New Delhi. The complainant was made to believe the misrepresentation and admitted his child for the study of 11th and 12th standard in the academic year 2001-02. Fees were also collected to the tune of Rs.3,000/- for term fee and other fees. It was later understood that the academy was not affiliated to CBSE and

the non affiliation was suppressed by the accused with intention to cheat the complainant. The acts allegedly committed by the petitioner amounted to misappropriation and cheating which were offences under the IPC and hence complaint was filed.

3. The petitioner seeks to quash the complaint on various grounds. According to the petitioner, she is only the Principal of the school and she has nothing to do with the administration of the management. She is not directly connected with the admission etc. It was also contended that Annexure-D judgment of this Court will show that steps were taken for approval by the CBSE by the management. The management filed Original Petition before this Court in which interim relief was also sought for. It is also pointed out that in another Original petition , Annexure-B, a true copy of the affiliation granted by the CBSE to the Devi Academy in 1995 was produced as Exhibit P2. This will be clear from the appendix to the order passed in the Original Petition, it is submitted. According to learned counsel for petitioner, there are records to prove that the petitioner was working in the school only from 1.4.2001 till September, 2001, though those are not produced before this Court.

4. On going through the allegations in the complaint, on hearing both sides, it cannot be said that the court below was absolutely wrong in proceeding against the accused. It is well settled by the decision of the Supreme Court that if the allegations made in

the complaint constitute offences, and even if such allegations fall short of one or two ingredients of the offences, this court shall not quash the complaint and interfere with the proceedings of the lower court. Hence, I do not find any reason to interfere with the proceedings initiated against the petitioner.

5. It has also to be noted that the court at the initial stage can go only by the allegations in the complaint and the documents produced along with the complaint, in deciding whether the accused has to be proceeded against or not. Any documents produced by the accused in this proceedings in support of his defence, cannot be looked into to enter a finding on a disputed question of fact. On the basis of such documents, this court is not expected to hold that either the complaint is false or the defence case is acceptable. Therefore, no interference is warranted under Section 482 Cr.P.C.

6. However, it is made clear that the petitioner can take up all the contentions raised in this proceedings at the appropriate stage and if so advised, she can also move for discharge, in which event, any of the observations made in this order, if any, on merit.

This appeal is dismissed.

K.HEMA, JUDGE

vgs.